

### REMARKS

Claims 1, 3-12, 14-23, 45-47, 49-60, and 62-65 are pending in the application. Claims 1 and 12 have been amended. Claims 44, 48, and 61 have been cancelled. Claims 12, 14-23, and 57-65 stand withdrawn in view of the Restriction Requirement. Favorable reconsideration in light of the amendments and remarks which follow is respectfully requested.

### Obviousness Rejection and Amendments

Some of the claims stand rejected under 35 U.S.C. §103(a) over Jackson et al in view of Puterka et al. However, the Examiner has indicated in the Advisory Action that claims 44-51 contain allowable subject matter.

Independent claims 1 and 12 have been amended to include the allowable subject matter of claim 44 and thereby disclaim compositions/methods with particles larger than 100  $\mu\text{m}$ . Consequently, claims 44, 48, and 61 have been cancelled without prejudice. The obviousness rejection is thereby rendered moot.

### Rejoinder

During prosecution, the claims were subjected to the following restriction requirement, in part:

Group I (claims 1, 3-11, and 44-56), drawn to a composition containing a particulate material; organic non-vegetable non-fuel high boiling oil; and at least one additive selected from the group consisting of ionic salt, colored particle, or surfactant; and

Group II (claims 12, 14-23, and 57-65), drawn to a method of controlling pests including applying the composition of claim 1.

MPEP 821.04 specifies that, where product and process claims are presented in the same application, and if product claims are elected in a

Restriction Requirement, after a product claim is found allowable, withdrawn process claims which depend from or include all the limitations of the allowable product claim will be rejoined.

Independent method claim 12 was amended to include all of the features of claim 1. Thus, in the event that claim 1 is deemed allowable, per MPEP 821.04, rejoinder of the method claims 12, 14-23, 57-60, and 62-65 is respectfully requested.

Petition for Extension of Time

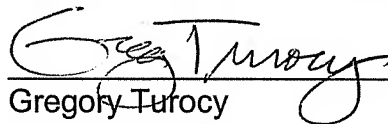
A request for a one month extension of time is hereby made. A Credit Card charge form is enclosed herewith to pay the petition fees.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-1063.

Respectfully submitted,

**AMIN, TUROCY & CALVIN, LLP**



Gregory Turocy  
Reg. No. 36,952

24<sup>th</sup> Floor  
1900 East 9<sup>th</sup> Street  
Cleveland, Ohio 44114  
(216) 696-8730  
Fax (216) 696-8731